



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPL, FFL

Introduction

The hearing was convened in response to an Application for Dispute Resolution filed by the Landlord, in which the Landlord applied for an Order of Possession for Landlord's Use of Property and to recover the fee for filing this Application for Dispute Resolution.

The Landlord stated that sometime in early February of 2021 the Dispute Resolution Package was left in the Tenant's mail box. He stated that he checked the mailbox a few days later and the documents had been removed. In the absence of evidence to the contrary, I find that these documents were served in accordance with section 71(2)(c) of the *Residential Tenancy Act (Act)*. As the Tenant was served with notice of the hearing, the hearing proceeded in the absence of the Tenant.

The Landlord stated that all of the evidence he submitted to the Residential Tenancy Branch was left in the Tenant's mailbox sometime during the latter part of February of 2021. In the absence of evidence to the contrary, I find that these documents were served in accordance with section 88 of the *Act* and they were accepted as evidence for these proceedings.

The Landlord was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The Landlord affirmed that he would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Landlord was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. He affirmed he would not record any portion of these proceedings.

Issue(s) to be Decided

Is the Landlord is entitled to an Order of Possession?

Background and Evidence

The Landlord stated that:

- The tenancy began in October of 2019;
- He has a written tenancy agreement with the Tenant;
- The rental unit is still occupied;
- On September 28, 2020 he placed a Two Month Notice to End Tenancy for Landlord's Use under the door of the rental unit and he placed a copy in the Tenant's mailbox;
- The Two Month Notice to End Tenancy for Landlord's Use declared that the unit must be vacated by November 30, 2020;
- He does not know if the Tenant filed an Application for Dispute Resolution to dispute the Two Month Notice to End Tenancy for Landlord's Use; and
- The rent has not been paid since January or February of 2021.

Analysis

Section 49 of the *Act* permits a landlord to end a tenancy for a variety of reasons, by serving the Tenant with a Two Month Notice to End Tenancy for Landlord's Use.

On the basis of the undisputed evidence, I find that a Two Month Notice to End Tenancy for Landlord's Use was served to the Tenant when it was placed in the Tenant's mail box on September 28, 2020. On the basis of the undisputed evidence, I find that this Notice declared that the rental unit must be vacated by November 30, 2020.

Section 49(6) of the *Act* stipulates that if a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with subsection 5, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date.

As there is no evidence that the Tenant filed an application to dispute the Two Month Notice to End Tenancy for Landlord's Use, I find that the Tenant accepted that the tenancy was ending on November 30, 2020, pursuant to section 49(6) of the *Act*.

On the basis of the undisputed evidence that the rental unit is still being occupied and I grant the Landlord's application for an Order of Possession.

I find that the Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee for filing this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$100.00, in compensation for the fee paid to file this Application for Dispute Resolution. I grant the Landlord a monetary Order for \$100.00. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: May 03, 2021

Residential Tenancy Branch